

REMARKS

This Response is submitted in reply to the non-final Office Action mailed on January 25, 2008. The Director is authorized to charge any additional fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 112703-201 on the account statement.

Claims 8-20 are pending in this application. Claims 1-7 and 21-35 were previously withdrawn. In the Office Action, Claims 8-20 are rejected under 35 U.S.C. §112, 35 U.S.C. §102 and 35 U.S.C. §103. For the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, Claims 8-20 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, the Patent Office asserts that the claim limitation “wherein the consumable tableted center is not a chewing gum” is new subject matter not described in the specification in such a way as to convey reasonably to one skilled in the relevant art that the inventors, at the time of the application, had possession of the claimed invention. Applicants respectfully disagree.

Applicants submit that the specification provides numerous embodiments of the consumable tableted center that are products other than a chewing gum. Page 5, lines 15-18 of the specification provides, “[t]he chewable consumable center can be, by way of example and not limitation, a gummi candy, confectionary starch, hard candy, licorice-type candy or tableted excipient such as dextrose, sucrose, or other saccharides, sorbitol, mannitol, iso-malitol, other sugar alcohols, or combinations thereof.” All these examples are products other than a chewing gum. Contrary to the Patent Office’s assertions, the mere fact that a product is a “gummi” candy does not mean it is a chewing gum. The defining characteristic of chewing gum is the inclusion of a water insoluble gum base. Since the above examples of a consumable center do not have a water insoluble gum base, they are not chewing gums. In fact, well-known products in the relevant art include, for example, “Gummi Bears” which are 100% candy and do not include any chewing gum whatsoever.

Moreover, page 9, lines 11-18 of Applicants’ specification provides,

As used herein “consumable center” means that a center is provided that can be ingested by the consumer. Preferably, the center can be chewed by the consumer. Unlike chewing gum, the consumable center is designed to dissolve in the mouth of the consumer and/or to be swallowed. If desired, the center can be

tableted so that it has a precise size (within an acceptable range) depending on the medicament or agent and shape. This allows an accurate control of the coating as well as allows one to produce products having specific sizes and shapes. [emphasis added].

Therefore, a “consumable tableted center”, unlike chewing gum, is designed to dissolve in the mouth of the consumer and/or be swallowed by the consumer.

The Patent Office further asserts, however, that Examples 1 and 2 in Applicants’ specification explicitly disclose consumable centers comprising chewing gums. See, Office Action, page 4, lines 10-12. Applicants respectfully submit that the Examiner is incorrect.

First, each of the Examples (1-4) describes a coated product where the center can be any of Formulations 1-4. See, specification, page 21, lines 5-10, 20-25 and 30-40 and page 22, lines 5-10. Formulations 1-4, as described in the “Product” section of the specification, are consumable centers containing no ingredients, namely gum base, characteristic of chewing gum. See, specification, page 17, line 20 to page 19, line 27. In fact, the specification directly refers to Formulations 1-4 as examples of a consumable center. See, specification, page 20, lines 26-27. Therefore, each of the formulations used as consumable centers for the present invention are not chewing gums.

Second, pages 22-25 of the specification, cited by the Patent Office, refer only to Experiments 1 and 2, and not examples of the above-described consumable centers. In fact, the specification states that Experiments 1 and 2 demonstrate the benefits of placing a medicament in a coating surrounding a chewable confectionery (chewing gum). See, specification, page 22, lines 13-15. As a result, Experiments 1 and 2 test the response of a chewable confectionery rather than a consumable center as required by the present claims. Therefore, pages 22-25 of the specification do not provide explicit examples of consumable centers comprised of chewing gum as asserted by the Patent Office.

Therefore, by distinguishing consumable tableted center from chewing gum, Applicants provide sufficient support in the written description for a consumable tableted center, wherein the consumable tableted center is not a chewing gum as recited in independent Claims 8 and 16.

Accordingly, Applicants respectfully request that the rejection of Claims 8-20 under 35 U.S.C. §112, first paragraph, be withdrawn.

In the Office Action, Claims 8-20 are rejected under 35 U.S.C. §102(e) as being anticipated by either U.S. Patent No. 6,541,048 to Zyck et al. (“*Zyck #1*”) or U.S. Patent No. 6,645,535 to Zyck et al. (“*Zyck #2*”). Claims 8-14 and 16-20 are rejected under 35 U.S.C. §102(e) as being anticipated by either U.S. Patent No. 6,627,234 to Johnson et al. (“*Johnson #1*”) or U.S. Patent No. 7,163,705 to Johnson et al. (“*Johnson #2*”). Applicants believe these rejections are improper and respectfully traverse them for at least the reasons set forth below.

Independent Claims 8 and 16 recite, in part, a consumable tableted center that is not a chewing gum. As discussed above, the specification teaches that the term “consumable center” means a center that can be ingested by the consumer, which unlike chewing gum, is designed to dissolve in the mouth of the consumer and/or be swallowed. In contrast, Applicants respectfully submit that the cited references fail to disclose or suggest every element of Claims 8 and 16.

Zyck #1 fails to disclose or suggest a consumable tableted center that is not a chewing gum as required, in part, by the present claims. Instead, *Zyck #1* is entirely directed to a coated chewing gum. See, for example, *Zyck #1*, Title; Abstract; Claim 1; column 2, lines 18-22; and Examples 1-6 and 23-29. Moreover, *Zyck #1* teaches that the term “chewing gum” includes bubble gum and all other types of chewing gum and that the gum base portion is retained in the mouth throughout the chew. See, *Zyck #1*, column 3, lines 3-5 and column 6, lines 6-7. Although the Patent Office asserts that *Zyck #1*, in line 3 of column 10, recites the consumable tableted center of the present claims, *Zyck #1* instead states, “sugar or sugarless gum center tablets to be coated are placed into a rotating pan to form a moving mass.” See, *Zyck #1*, column 10, lines 2-3.

Similar to *Zyck #1*, *Zyck #2* also fails to disclose or suggest a consumable tableted center that is not a chewing gum as required, in part, by the present claims. Rather, *Zyck #2* is also directed to a coated chewing gum. Moreover, *Zyck #2* states, identically to *Zyck #1*, that the term “chewing gum” includes bubble gum and all other types of chewing gum and that the gum base portion is retained in the mouth throughout the chew. See, *Zyck #2*, column 3, lines 23-25 and column 6, lines 38-39. Although the Patent Office asserts that *Zyck #2* recites the consumable tableted center of the present claims, *Zyck #2* instead discloses sugar or sugarless gum center tablets. See, *Zyck #2*, column 10, lines 36-37. In fact, the portions of *Zyck #1* and *Zyck #2* cited by Patent Office are identical.

Similar to the *Zyck* references, *Johnson #1* and *Johnson #2* are entirely directed to a coated chewing gum and therefore fail to disclose or suggest a consumable tableted center that is not a chewing gum as required, in part, by the present claims. Further, like the *Zyck* references above, both *Johnson* references state that the gum base portion of the chewing gum is retained in the mouth throughout the chew. See, *Johnson #1*, column 10, line 63 to column 11, line 2 and *Johnson #2*, column 9, lines 21-27. Though the Patent Office asserts that both *Johnson* references recite the consumable tableted center of instant independent Claims 8 and 16 (See, Office Action, pages 2-3), *Johnson #1* recites a “chewing gum formulation which is then tableted and used as a core for a coated chewing gum.” See, *Johnson #1*, column 10, lines 54-59. Likewise, *Johnson #2* recites sugar or sugarless gum center tablets. *Johnson #2*, column 13, lines 50-52.

In sum, the cited references are entirely directed to chewing gums and fail to disclose or suggest a consumable tableted center that is not a chewing gum in accordance with the present claims. Moreover, all of the Examiner’s citations to the references for the alleged consumable tableted centers explicitly teach a chewing gum or gum base. For at least the reasons discussed above, Applicants respectfully submit that Claims 8 and 16 and Claims 9-15 and 17-20 that depend from Claims 8 and 16 are novel, nonobvious and distinguishable from the cited references.

Accordingly, Applicants respectfully request that the anticipation rejections with respect to Claims 8-20 be reconsidered and the rejections be withdrawn.

In the Office Action, Claims 8-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,056,541 to Stahl (“*Stahl*”). Applicants believe this rejection is improper and respectfully traverse it for at least the reasons set forth below.

Applicants respectfully submit that *Stahl* fails to disclose every element of the present claims. For example, *Stahl* fails to teach, suggest, or disclose a consumable tableted center that is not a chewing gum as required, in part, by the present claims. Rather, *Stahl*, like all the previous cited references, is entirely directed to a coated chewing gum. See, for example, Abstract and Claim 1. Though the Patent Office asserts that *Stahl* teaches a consumable tableted center of the present claims (See, Office Action, page 9), *Stahl*’s reference to “tablets” actually relates to forming a harder and a crunchy coating on a chewing gum. See, *Stahl*, column 1, lines 38-43. For at least the reasons discussed above, *Stahl* fails to teach, suggest, or even disclose

every element of Claims 8 and 16 and Claims 9-15 and 17-20 that depend from Claims 8 and 16, and thus, fail to render the claimed subject matter obvious.

Accordingly, Applicants respectfully request that the obviousness rejection with respect to Claims 8-20 be reconsidered and the rejection be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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